

REMARKS

Claims 22-26, 28-33, 36-45, 47-50, 52-69, 71-73, 75-87, 90-93 and 95 are pending. Of these, claims 66-69, 71-73, 91 and 92 have been withdrawn from consideration. Claims 22-26, 28-33, 36-45, 47-50, 52-65, 75-87, 90, 93 and 95 are rejected. Claims 1, 22 and 42 have been amended. Reconsideration of the rejection is respectfully requested in view of the following remarks.

Claim Rejections – 35 USC §112

Claims 22-26, 28-30, 36-38, 42-50, 52-65, 75-79 and 95 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully submit that deletion of the term “about”, in the context where it modifies the pressure range, from the claims renders moot the grounds for rejection.

As for mixing the upper and lower limits from the two recited ranges, Applicants respectfully submit that such is acceptable. In particular, the specification recites that one embodiment of the invention operates in the pressure range of “0.01 to 100 tons per square inch”, and that a preferred range is “0.2 to 2.0 tons per square inch.” Clearly, the claimed range of “0.2 to 100 tons per square inch is narrower than the disclosed range of 0.01 to 100 tons per square inch. Furthermore, there is express support for both ends of the claimed range. As there is no discontinuity or interruption in the support in the specification from the lower end of the claimed range to the upper end, the claimed range is fully described, Applicants respectfully submit.

Claim Rejections – 35 USC §102/103

Claims 22-26, 28-33, 36-41, 75-77, 80-81, 84, 87, 90, 93 and 95 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,158,574 to Stone (hereinafter referred to as “Stone”) as evidenced by U.S. Patent No. 3,616,205 to Ito (hereinafter referred to as “Ito”). Claims 22-26, 28-30, 36-38, 42-45, 47-48, 52-65, 75-84, 87, 90, 93 and 95 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. US2002/0127270 to Li (hereinafter referred to as “Li”) as evidenced by Ito. Claims 22-26, 28-33, 36-50, 52-65, 75-87, 90, 93 and 95 are rejected under 35 U.S.C. §103(a) as being unpatentable over Stone as evidenced by Ito in view of Li and further in view of U.S. Patent No. 6,428,576 B1 to Haldimann. Applicants respectfully traverse these rejections.

Applicants respectfully submit that none of Stone, Ito, Li or Haldimann discloses or suggests the claimed invention. Specifically, none of the cited references, whether taken individually or in permissible combinations, discloses or suggests the claimed implantable device featuring a lubricant comprising soluble collagen.

Thus, the claimed invention is patentable over the cited documents, Applicants respectfully submit.

The Action asserts that Applicants have not amended their claims in such a way as to preclude either the Stone or Li references. The Action states that it does not find the new limitation "soluble collagen" to be particularly limiting since it doesn't set forth any conditions in which the collagen is solubilized nor is such term defined within the specification. The Action thus concludes that essentially any collagen could read on soluble collagen. As evidence, the Action relies upon the description within Ito, who allegedly describes methods to solubilize even so-called insoluble collagens. Thus, the Action considers any collagen as being capable of being solubilized depending upon the conditions used.

Applicants respectfully traverse this position.

Applicants respectfully submit that the instant specification provides some guidance by what is meant by "soluble collagen", and further provides at least one example of a collagen that is not "soluble collagen". In particular, the passage at, for example, page 13, lines 19-22 teaches that acid-soluble collagen is a subset of soluble collagen; that is, Applicants consider "soluble collagen" as including "acid-soluble collagen". What is known to those skilled in the art (and thus not necessarily expressly recited in the instant application) is that the solubility of collagen is expressed in the context of the solvent being aqueous-based. Acid-soluble collagens additionally require that the aqueous medium be acidic. Moreover, the first sentence of Example 1, which bridges pages 43 and 44, gives an example of an *insoluble* collagen, namely a fibrous collagen known as "Semed F". This passage furthermore discloses that the two forms can exist together as a blend, here, as a blend of fibrous the soluble collagen known as "Semed S".

Assuming *arguendo* that the examiner is correct that any collagen is capable of being solubilized, this does not mean that insoluble collagen is soluble collagen, or even that it is equivalent to soluble collagen. Just because something is capable of being transformed into something else does not automatically make it so.

Stone and Li teach a prosthesis and a membrane, respectively, each featuring fibrous collagen but not soluble collagen. Even though their collagens *could* be converted to soluble collagen under the right conditions and with additional processing, there is no indication or suggestion in their respective disclosures that they would want this, or that such soluble collagen would function properly in the context of their respective inventions.


Accordingly, Applicants respectfully request that these rejections be withdrawn.

In view of the amendments and the above remarks, Applicants respectfully submit that the instant application is in condition for allowance. Accordingly, Applicants respectfully request issuance of a Notice of Allowance directed to claims 22-26, 28-33, 36-45, 47-50, 52-65, 74-87, 90, 93 and 95. Applicants furthermore request rejoinder of claims 66-69, 71-73, 91 and 92.

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Should the Examiner deem that any further action on the part of Applicants would be desirable, the Examiner is invited to telephone Applicants' undersigned representative.

Respectfully submitted,


Jeffrey R. Ramberg
Reg. No. 34,700

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c/o Kensey Nash Corporation
735 Pennsylvania Drive
Exton, PA 19341

Tel: (484) 713-2140
Fax: (484) 713-2909